

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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United States of America,

Case No. 0:19-cr-52-JNE-KMM-1

Plaintiff,

v.

**ORDER**

Jacob Lee Hamilton,

Defendant.

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This matter is before the Court on motions for discovery and disclosure filed by the Defendant Jacob Lee Hamilton. The Court held a hearing on the Motions on May 10, 2019. Based on the motions that were filed, the written responses, and the arguments presented at the hearing, the Court enters the following Order.<sup>1</sup>

**1. Government's Motion for Discovery (ECF No. 14)**

The government's motion for discovery of information pursuant to Rule 16 of the Federal Rules of Criminal Procedure is **GRANTED WITH MODIFICATIONS**. The defendant shall provide discovery and disclosures as required by the Fed. R. Crim. P. 16. If the government intends to introduce any expert testimony at the trial in this matter, it must make the disclosures discussed at Rule 16(a)(1)(G) by no later than **four weeks** ahead of the trial date in this case. The defendants must make any reciprocal disclosures required by Rule 16(b)(1)(C) by no later than **three weeks** ahead of the trial date.

**2. Mr. Hamilton's Motion for Disclosure of 404(b) Evidence (ECF No. 16)**

Mr. Hamilton's motion for disclosure of Rule 404(b) evidence is **GRANTED**. The government shall disclose any evidence it intends to offer at trial pursuant to Fed. R. Evid. 404(b) at least **two weeks** before trial.

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<sup>1</sup> The Court will separately issue a report and recommendation on Mr. Hamilton's Motions to Suppress Fruits of Unlawful Arrest and Search and to Suppress Statements. (ECF Nos. 22, 23.)

**3. Mr. Hamilton's Motion for Disclosure of Favorable Evidence (ECF No. 17)**

Mr. Hamilton's motion for disclosure of favorable evidence is **GRANTED**. The government is obligated to disclose evidence favorable to Mr. Hamilton as required by *Brady v. Maryland*, 373 U.S. 83 (1963), *Giglio v. United States*, 405 U.S. 150 (1972), and their progeny. These cases place an ongoing obligation on counsel for the government to disclose exculpatory evidence and impeachment material to Mr. Hamilton.

**4. Mr. Hamilton's Motion for Discovery (ECF No. 18)**

Mr. Hamilton's motion for discovery and inspection is **GRANTED** to the extent it seeks discovery and disclosure consistent with Fed. R. Crim. P. 16. The government shall continue to comply with its discovery and disclosure obligations.

**5. Mr. Hamilton's Motion for Disclosure of Confidential Informants (ECF No. 19)**

Mr. Hamilton's Motion to disclose the identity of the government's informant and to make that informant available for interview is **DENIED WITHOUT PREJUDICE AS MOOT**. The government has indicated it will not seek to introduce any informant testimony at trial. Should that change, the government must inform Mr. Hamilton immediately.

**6. Mr. Hamilton's Motion for Disclosure of Jencks Act Material (ECF No. 20)**

Mr. Hamilton's motion for early disclosure of Jencks Act material is **DENIED**. The Jencks Act provides that the government "need not produce Jencks statements prior to a witness' testimony on direct examination." *United States v. Douglas*, 964 F.2d 738, 741 & n.2 (8th Cir. 1992) (citing 18 U.S.C. § 3500(b) and discussing the government's option to make earlier voluntary disclosure, such as through an "open file policy"). However, the government is strongly encouraged to disclose any Jencks Act material as early as possible. To the extent any Jencks Act

material has not yet been shared, the government has agreed to provide it to the defense no later than three working days before trial.

**7. Mr. Hamilton's Motion to Retain Rough Notes (ECF No. 21)**

Mr. Hamilton's motion for government agents to retain rough notes is **GRANTED**. Disclosure of rough notes is not required by this paragraph.

Date: May 10, 2019

*s/ Katherine Menendez*  
Katherine Menendez  
United States Magistrate Judge